

REGULAR MEETING NORTH SMITHFIELD TOWN COUNCIL

AUGUST 20, 2007

KENDALL-DEAN SCHOOL

7:00 P.M.

GOOD & WELFARE

Zoning Matter

Mrs. Claire O'Hara of 16 Summit Avenue was disturbed that as long as there is legal parking, huge commercial vehicles can park in front of residences. She stated that, according to zoning, motor homes cannot be in a driveway longer than 24 hours.

Assessments

Mrs. O'Hara has checked various real estate assessments and feels there are discrepancies. More money should be coming into town from businesses.

Posted Signs

Mr. Ernest Alter complained about advertisements nailed to telephone poles. He removed those across from his home. Mr. Alter feels this is a law enforcement issue that should be discussed with the Police Department. The Highway Department should be instructed to take them down.

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Hydroelectric Plant

Mr. Alter was taken aback by a recent article that appeared in the Valley Breeze regarding a hydroelectric plant on Holliston Sand property. He is afraid this may be a ploy to reintroduce plans of several years ago.

REGULAR MEETING

The meeting began at 7:00 P.M. with the prayer and the pledge to the flag. Council members present were Mr. Keeley, Mr. Leclerc, Mr. Lovett, Mr. Zwolenski and Mrs. Thibault. Town Administrator Lowe was unable to attend due to illness. Town Solicitor Hadden was in attendance.

EXECUTIVE SESSION

MOTION by Mr. Lovett, seconded by Mr. Keeley, and voted unanimously on an aye vote to enter into executive session at 7:02 P.M. pursuant to RIGL 42-46-5(A)(2) Sessions pertaining to collective bargaining or litigation to discuss Northern Rhode Island Private Industry Council vs. the Town of North Smithfield.

MOTION by Mr. Lovett, seconded by Mr. Keeley, and voted unanimously on an aye vote to come out of executive session at 7:08 P.M. No motions were made and no votes were taken.

APPROVAL OF MINUTES

MOTION by Mr. Lovett and seconded by Mr. Keeley to approve the

minutes of July 16 and 19, 2007 as presented.

Mr. Zwolenski felt the minutes on page 145 regarding the NSHS Mobile Computer lab should be corrected to read the funding had been “recommended” by the Planning Board.

Mr. Lovett amended his motion and Mr. Keeley amended his second to include the word “recommendation” rather than “approved” by the Planning Board.

Following further discussion, Mr. Lovett withdrew his motion and Mr. Keeley withdrew his second.

MOTION by Mr. Lovett, seconded by Mr. Keeley and Mr. Zwolenski, and voted unanimously on an aye vote to approve the minutes of July 16 and 19 with one change on page 145 to read: “School Facilities Director Bob Desrochers and Technology Director Eric Butash requested that the school department be allowed to purchase a mobile computer lab through capital funding rather than the new truck with tractor that had been recommended by the Planning Board and approved by the Town Council under the capital budget.”

PAYMENT OF BILLS

MOTION by Mr. Lovett, seconded by Mr. Leclerc, and voted unanimously on a roll call vote to approve payment of the following: General Fund - \$2,482,746.10; Sewer - \$17,127.56; and Water -

\$85,587.87 for a total of \$2,585,461.53.

SCHOOL BUILDING COMMITTEE PAYMENT REQUEST

MOTION by Mr. Leclerc, seconded by Mr. Keeley, and voted unanimously on a roll call vote to approve payment of the following: Gilbane Building Co. for Requisition #12, Job #4178 in the amount of \$1,230,906.91; Gilbane Building Co. for Requisition #1, Job #4178010 in the amount of \$12,768.00 and Attorney Joseph J. Reale, Jr. for Invoice #32034 in the amount of \$1,817.56 for a total of \$1,245,492.47.

DELINQUENT TANGIBLE TAXES/BUSINESS REGISTRATIONS

Mr. Hadden explained there are four businesses that have not paid their tangible taxes. They were notified by certified mail on May 16, 2007 that they had 30 days to make full payment or the matter would be forwarded to the Town Council for a public hearing. These businesses were sent another letter on July 16, 2007 informing them that since they had not paid, they would be placed on the Town Council agenda for August 20, 2007. This could result in the commencement of legal action and the revocation of the privilege to do business in town.

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The four businesses and the amounts owed are Michael Maggiacomo d/b/a EA Computer Solutions - \$124.43, Mongeon Auto & Truck Corporation –

\$19,489.03, Perrault Construction Inc. - \$241.27 and Creatures, Creatures, Creatures Inc. - \$437.75.

Michael Maggiacomo d/b/a E A Computer Solutions

Mr. Zwolenski and Mr. Leclerc did not want to close Mr. Maggiacomo's business for \$125.00. They thought another attempt should be made.

Both Mr. Lovett and Mrs. Thibault felt that in order to be fair, the Council needed to be consistent. They felt all avenues have been exhausted.

MOTION by Mr. Zwolenski and seconded by Mr. Leclerc to send another letter to Michael Maggiacomo noting that the Council will take immediate action for revocation of operating privileges if the taxes plus penalties are not paid by September 14, 2007.

Following a conversation with Mr. Hadden, Mr. Zwolenski withdrew his motion and Mr. Leclerc withdrew his second.

MOTION by Mr. Zwolenski and seconded by Mr. Leclerc that the Town Council revoke the registration to do business and to revoke the privilege to do business in North Smithfield and that the revocation be effective as of September 14, 2007. In the absence of full payment of taxes, penalties and interest that would be due and owing as of September 14, 2007, that entity shall not be allowed to continue to do

business in the town.

Roll call: Mr. Keeley – no; Mr. Leclerc – yes; Mr. Lovett – no; Mr. Zwolenski – yes; and Mrs. Thibault – no. The motion failed 3 to 2.

MOTION by Mr. Lovett and seconded by Mr. Keeley that, based upon the work of the Tax Collector and the Finance Director, the Town Council revoke the privileges of Michael Maggiacomo d/b/a EA Computer Solutions to do business in the town of North Smithfield effective immediately due to the fact he has overdue taxes dating back to 2004 in the amount of \$124.43 and also because he has failed to register his business.

Roll call: Mr. Keeley – yes; Mr. Leclerc – no; Mr. Lovett – yes; Mr. Zwolenski – no; and Mrs. Thibault – yes. The motion carried 3 to 2.

Mongeon Auto & Truck Corp.

Mr. Norbert Mongeon was present and stated he has been struggling to pay his taxes. He cannot come up with \$19,000 tomorrow and asked for an additional 30 days.

MOTION by Mr. Leclerc and seconded by Mr. Zwolenski to revoke the operating license for Mongeon Auto & Truck Corporation on September 14, 2007. The bill of \$19,489.03, plus penalties and interest, needs to be paid in full.

Roll call: Mr. Keeley – no; Mr. Leclerc – yes; Mr. Lovett – no; Mr. Zwolenski – yes; and Mrs. Thibault – no. The motion failed 3 to 2.

MOTION by Mr. Lovett and seconded by Mr. Keeley to revoke Mongeon's Auto privilege to do business in the town of North Smithfield effective immediately because of delinquent taxes in the amount of \$19,489.03 and because of failure to register his business.

Roll call: Mr. Keeley – yes; Mr. Leclerc – no; Mr. Lovett – yes; Mr. Zwolenski – no; and Mrs. Thibault – yes. The motion passed 3 to 2.

Perreault Construction Inc.

MOTION by Mr. Lovett and seconded by Mr. Keeley that, based on delinquent taxes in the amount of \$241.27 as well as failure to register the business, the privilege to do business in the town be revoked immediately.

Roll call: Mr. Keeley – yes; Mr. Leclerc – no; Mr. Lovett – yes; Mr. Zwolenski – no; and Mrs. Thibault – yes. The motion carried 3 to 2.

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Creatures, Creatures, Creatures, Inc.

Mr. Leclerc recused himself from this discussion as he has patronized this establishment.

MOTION by Mr. Lovett and seconded by Mr. Keeley to revoke the privilege to do business due to the fact they have delinquent taxes and have failed to register the business.

Roll call: Mr. Keeley – yes; Mr. Lovett – yes; Mr. Zwolenski – no; and Mrs. Thibault – yes. The motion carried 3 to 1.

MOTION by Mr. Lovett and seconded by Mr. Keeley that, when and if Michael Maggiacomo, Mongeon Auto & Truck Corporation, Perreault Construction Inc. or Creatures, Creatures, Creatures pay all of their delinquent taxes including penalties and interest, they are welcome to register for a business license to once again do business in North Smithfield.

Because Mr. Leclerc would not be able to vote on this motion, Mr. Lovett withdrew it and Mr. Keeley withdrew his second.

MOTION by Mr. Lovett and seconded by Mr. Keeley that, when and if Michael Maggiacomo, Mongeon Auto & Truck Corporation or Perreault Construction Inc. pay all of their delinquent taxes including penalties and interest, they will be eligible to acquire a business registration to continue to do business in North Smithfield.

On a roll call vote, the motion passed unanimously 5 to 0.

MOTION by Mr. Lovett and seconded by Mr. Keeley that, when and if

Creatures, Creatures, Creatures, Inc. pay all of their delinquent taxes including penalties and interest, they will be eligible to acquire a business registration to continue to do business in North Smithfield.

On a roll call vote, the motion passed unanimously 4 to 0. Mr. Leclerc did not vote.

RESOLUTION RE: CHARTER REVISION/COMPETITIVE BIDDING

Mr. Hadden presented three alternates to increase the minimum amount required before advertising a competitive bid.

MOTION by Mr. Zwolenski, seconded by Mr. Keeley, and voted unanimously on an aye vote to accept Alternate B.

MOTION by Mr. Leclerc, seconded by Mr. Lovett, and voted unanimously on a roll call vote to accept the following resolution as read by Mr. Leclerc: “Whereas, The Town Council wishes to recommend to the electorate that the town charter be amended solely with respect to Section 3, “Competitive Bidding”, within Article VII, “Department of Finance.” Whereas, the purpose of the amendment is to update an outmoded charter provision in many respects to be more consistent with developing state law, to avoid unnecessary and high expenses of advertising for bids for smaller purchases and contracts, and to protect the town from expensive bids challenges by providing the town with greater discretion in the awarding of requisitions and contracts. WHEREFORE, the town council

RESOLVES and authorizes a town wide vote and referendum to be held on October 16, 2007, for the purpose of replacing “Section 3” in its entirety, to be replaced by a new “Section 3” as appears below. Furthermore, the town council authorizes a vote in the form of a question, consistent with the requirements of the Secretary of State and the State Board of Elections, as follows: SHALL THE CHARTER OF THE TOWN OF NORTH SMITHFIELD BE AMENDED SUCH THAT ARTICLE VII, “Department of Finance”, SECTION 3, “Competitive Bidding” SHALL READ AS FOLLOWS: SECTION 3. Competitive Bidding A. Competitive Bidding. No purchase of supplies, materials, or equipment, nor any contract for work performed for the town, whose costs shall exceed the aggregate amount set by state law pursuant to RIGL 45-55-9 or its successor provision, as amended shall be authorized except after competitive bidding, provided, however, that this restriction shall not apply to contracts for professional services. Opportunity shall be given for competitive bidding after public notice under such rules and regulations, and with such

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exception, as the town council may prescribe by ordinance. All such purchases and contracts shall be awarded to the lowest responsive, qualified and responsible bidder, consistent with the best interests of and most favorable to the town, and by such methods as are permissible under state law. In all cases, however, the finance director may be directed by the town council to reject all bids and

re-advertise, cancel the requisition entirely or otherwise proceed. Bids, specifications and all other factors being equal, preference may be given to the bidder whose place of business is in the town. No transaction which is essentially a unit may be divided into a series of orders for the purpose of circumventing this section. B. Purchases and Emergencies. In the event of an emergency of sufficient gravity that compliance with the competitive bidding requirements set forth in this section would endanger the health, safety or welfare of the community or a portion thereof, or would involve significant financial risk or loss to the town, and upon certification and the authorization of, in writing, by the town administrator as to the nature and existence of such emergency, a purchase or contract whose cost would exceed the minimum bid limit may be made without competitive bidding. In any such case, such purchase or contract may be made upon the procurement of three (3) or more verbal quotations followed by written confirmation, and a written determination shall be included in the contract file as to the reasons for the selection of the particular supplier or contractor. The president of the town council shall be notified of the certification and action of the town administrator as soon as practicable. The town council may by ordinance issue regulations governing procedures consistent with this section, including monetary amounts to which this section may apply.”

HIGH SCHOOL SEPTIC SYSTEM

MOTION by Mr. Leclerc, seconded by Mr. Keeley, and voted

unanimously on a roll call vote to approve the following change to the Owner Contingency in the amount of \$13,893.00 for an unknown condition relative to the high school septic system and also a change to the Builder's Contingency to install an 8" gate valve on the hydrant loop to the middle school, revise footings at elevator pit from cmu to concrete, and premium component for 20mhrs of overtime in the amount of \$5,255.00 based upon the recommendation of the School Building Committee.

MOTION by Mr. Leclerc, seconded by Mr. Keeley, and voted unanimously on an aye vote to authorize the Town Administrator to sign Change Orders #2 and #3.

CONSERVATION COMMISSION MINUTES

MOTION by Mr. Lovett, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to accept and place on file the minutes of May 8 and July 11, 2007.

OUTDOOR SOUND SYSTEM – D. PELOQUIN

Ms. Donna Peloquin of 3 Willerval Avenue requested permission to use an outdoor sound system on September 1, 2007 from 2:00 P.M. to 10:00 P.M.

Chief Reynolds provided a letter objecting to the permit because in August of 2006, North Smithfield police officers responded on two separate occasions regarding loud noises at this same address.

There were questions regarding the number of attendees and parking accommodations.

MOTION by Mr. Zwolenski and seconded by Mr. Keeley to permit use of an outdoor sound system to Donna Peloquin from 2:00 P.M. to 6:00 P.M. on September 1, 2007. The granting of such license is not meant to condone the emitting of excessive noise to be determined by the North Smithfield Police Department.

Roll call: Mr. Keeley – yes; Mr. Leclerc – yes; Mr. Lovett – no; Mr. Zwolenski – yes; and Mrs. Thibault – no. The motion carried 3 to 2.

2ND READING ORDINANCE AMENDMENT RE: LICENSE FEES

MOTION by Mr. Lovett, seconded by Mr. Keeley, and voted unanimously on a roll call vote to adopt the following ordinance amendment: “IT IS

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ORDAINED by the Town Council of the Town of North Smithfield: Section 11-30 of the Code of Ordinances, entitled, “Fee schedule”, of Title 11, “Occupational Licenses, shall be amended to read as follows: No other provision of the ordinance or the affected sub-sections shall be changed except as herein specified.

Class	Term	Date Due/Issued	\$Fee
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(7) Entertainment:

(a) Dancing:	Each	On application	\$10.00 per day
	December 1	\$150.00 per year	

(14) Liquor:

(a) Class A	1 year	December 1	\$1000.00
(b) Class BT	1 year	December 1	750.00
(c) Class BV	1 year	December 1	750.00
(d) Class BVL	1 year	December 1	400.00
(e) Class C	1 year	December 1	600.00
(f) Class D	1 year	December 1	400.00
(g) Class DL	1 year	December 1	200.00
(h) Class E	1 year	December 1	100.00
(i) Class F	1 day	On application	15.00
(j) Class F-1	1 day	On application	35.00

(30) Holiday Sales	1 year	December 1	50.00
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(32) Victualing House	1 year	December 1	50.00
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(unlimited)

(35) Garage sales,	1 day	On application	5.00
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Yard sales, or Flea
Markets so-called
(Limit 2 per year)

(36) Flea Market

(Commercial)

(d) Yearly 1 year December 1 50.00

SEWER ASSESSMENT FOR 10 GLEN AVENUE – K. DULUDE

Mr. Keith Dulude, owner of the property at 10 Glen Avenue, felt he was being treated inequitably regarding his sewer assessment. This is a five unit condominium development and he is being charged a \$5,200.00 sewer connection fee per unit. Mr. Dulude maintains that this property is part of the Union Village Sewer District because he obtained an easement through municipal property and made the connection in Merrimac Street. The Union Village Sewer District is charged \$1,500.00 per single unit and \$450.00 per each additional residential unit.

Mr. Zwolenski recalled, at the time Mr. Dulude requested the easement through town property, asking Mr. Dulude if he would be willing to grant an easement to his neighbors on Glen Avenue to also connect to the sewer system. Mr. Dulude was not willing because there was the possibility that he would be erecting a garage. Mr. Zwolenski had noted at that time that the easement the town granted to Mr. Dulude precluded the town from doing any development with that property.

Mr. Lovett remembered that Mr. Dulude had been asked to return to the Sewer Commission for their recommendation and he questioned what that recommendation was.

Mr. Dulude responded that the Commission did not agree that he was in the Union Village Sewer District and he was being charged the proper assessment.

MOTION by Mr. Zwolenski and seconded by Mr. Leclerc to deny Keith Dulude's request for a sewer abatement for property on Glen Avenue based upon the recommendation of the Sewer Commission.

On a roll call vote the motion passed 4 to 1 with Mr. Keeley voting no.

ANNETTE AVENUE/DEM APPLICATION – J. PIETTE

Attorney Eric Brainsky once again appeared before the Council to request that the Town enter as a signatory on Jeffrey Piette's

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application for a Preliminary Determination to the RI Department of Environmental Management. The concerns that had been raised at the June 18th meeting have been addressed.

Assistant Town Solicitor Robert Rossi noted that how Annette Avenue would be improved is in Superior Court but he agreed that the Town should enter as a signatory. The owner of the lot does have right of access to the lot and the town could be liable for inverse condemnation. The Town can determine later whether it will oppose the application.

MOTION by Mr. Leclerc and seconded by Mr. Keeley that the town be a signatory on an application of Jeffrey Piette for wetlands alteration of freshwater wetlands in the area of Annette Avenue, Assessor's Plat 9, Lot 191 and that the Town Administrator is authorized to sign such DEM application on behalf of the town. The Town does not, in any way, endorse the wetlands application by being a signatory and the Town reserves all rights to file comments on and object to the application and directs the Planning Board to consider whether to oppose this application and to take all appropriate action in that opposition if it is so desired.

On a roll call vote the motion passed 4 to 1 with Mr. Zwolenski voting no.

CHERRY BROOK

Mr. Miles Briggs asked if the residents could get any information on deadlines for grants.

Since neither Mr. Lowe nor Town Planner Michael Phillips were able to attend tonight's meeting, Mrs. Thibault offered to speak with the Administrator tomorrow.

Mr. Zwolenski asked that the Administrator give the Council an update. He would like to see a written report on what actions have taken place, what grants are being applied for as well as a time frame

on grants.

MURRAY PROPERTY AT 142 ELIZABETH AVENUE

Mr. Joseph Murray, Jr. explained that in front of his house are a couple of drains that do not work properly. Following a rainstorm a pond formed in front of his house that eventually ran down his driveway like a river and flooded his basement. Mr. Murray contacted Mr. Lowe who, in turn, contacted Rock Construction. Their insurance company did compensate Mr. Murray to refurbish his basement. The development owner, Mr. Mesolella, has since hired another construction company who did not grade the road properly. Mr. Murray is still getting a pond in front of his house that is not flowing into the drains. It resulted in a second flooding. He credits Public Works Director Raymond Pendergast with placing sandbags at the top of his driveway and subsequently a berm. Mr. Murray is hoping that someone can tell him when the road will be repaired correctly.

Mr. Pendergast commented that the road was supposed to be paved by August but now he is hearing it won't be until the fall. There are other problems in the development such as mudslides and he has pushed to get the problems corrected and the paving done.

MOTION by Mr. Zwolenski, seconded by Mr. Leclerc, and voted unanimously on an aye vote that a letter be sent to the Planning Board recommending that all activity on Phase II of LIZ Development ceases until the work is completed on Phase I.

COMMUNICATIONS

MOTION by Mr. Leclerc, seconded by Mr. Lovett and Mr. Zwolenski, and voted unanimously on an aye vote to place on file the following: A.) Animal Control Monthly Report for July 2007 and B.) Notice of Planning Board Meeting from the Town of Blackstone.

MOTION by Mr. Leclerc, seconded by Mr. Keeley and Mr. Zwolenski, and voted unanimously on an aye vote to adjourn at 10:16 P.M.

Respectfully submitted,